

UNITED STATES OF AMERICA  
UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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GERALD FREES,

Plaintiff,

Case No. 1:11-cv-1358

v.

Honorable Paul L. Maloney

PAUL DUBY et al.,

Defendants.

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**ORDER**

This is a civil rights action brought by a state prisoner pursuant to 42 U.S.C. § 1983.

By order entered February 6, 2012 (docket #6), the Court granted Plaintiff's request to proceed *in forma pauperis* and required Plaintiff to pay an initial partial filing fee of \$3.63 pursuant to 28 U.S.C. § 1915(b)(1). The Court ordered that the initial partial filing fee be paid within 28 days, and warned Plaintiff that his case would be dismissed without prejudice should he fail to pay. The Court also warned Plaintiff that he would remain liable for the filing fee.<sup>1</sup>

Twenty-eight days have now elapsed, and Plaintiff has not paid the fee. Because Plaintiff has failed to comply with the Court's order, the Court will dismiss the action without prejudice for lack of prosecution. Plaintiff shall remain liable for the \$350.00 civil action filing fee.

Dated: March 27, 2012

/s/ Paul L. Maloney

Paul L. Maloney

Chief United States District Judge

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<sup>1</sup>In a letter to the Court (docket #6), Plaintiff argues that he does not owe the filing fee because his case was resolved at the institutional level. Plaintiff is incorrect. Any dismissal of plaintiff's case, even if voluntarily, does not negate plaintiff's responsibility to pay the filing fee. *McGore v. Wrigglesworth*, 114 F.3d 601, 607 (6th Cir. 1997).